IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION Nos.12066 and 12152 of 2005

W.P.No.12066 of 2005 :

Between:

M/s. United Auto Tractors Limited, A Company registered under the Companies Act 1956.
Rep. By its Managing Director S.N. Bhalla,

R/o. 2-316/3/2, Road No.14, Banjara Hills, Hyderabad.

..... PETITIONER

AND

1 The Estate Officer and Manager Recoveries,

Andhra Pradesh Industrial Infrastructure Corporation Limited
Office at 6th Floor, Parishrama Bhavan, Basheerbagh,

Hyderabad.
2 The Appellate Authority U/s. 9 of the A.P. Public Premises

(Eviction of Unauthorized Occupants) Act 1968 and
IV Additional District and Sessions Judge cum (FTC),

Ranga Reddy District Court at L.B. Nagar.
3 Andhra Pradesh Industrial Infrastructure Corporation Limited

Rep. by its Managing Director, Office at 6th Floor,

Parishrama Bhavan, Basheerbagh, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or writs order or direction more particularly in the nature of Writ of Mandamus declaring and setting aside the judgment dt. 6-4-2005 in CMA No. 123/1999 passed by the 2nd respondent confirming the eviction order dt.11-10-1999 passed by the 1st respondent as being illegal, arbitrary, unconstitutional, violative of principles of natural justice and without jurisdiction.

Counsel for the Petitioner : MR.B.VIJAYSEN REDDY

Counsel for Respondent Nos.1 & 3 : MR.E.MADAN MOHAN RAO

Counsel for Respondent No.2 : G.P. for Labour.

The Court made the following :

W.P.No.12152 of 2005 :

Between:

M/s United Auto Tractors Ltd., A company registered under the Companies Act 1956 rep. by its Managing Director S.N.Bhalla R/o.2-316/3/2,

Road No.14, Banjra Hills, Hyderabad.

..... PETITIONER

AND

1 The Estate Officer and Manager Recoveries,

A.P.Industrial Infrastructure Corporation Ltd.
Office at 6th Floor, Parishrama Bhavan, Basheerbagh,

Hyderabad.

2 The Appellate Authorty U/s 9 of the A.P. Public Premises

(Eviction of Unauthorized Occupants) act 1968
and IV Additional District and Sessions Judge Cum (FTC)

Ranga Reddy District Court at L.B.Nagar.

3 A.P. Industrial Infrastructure Corporation Ltd.

rep. by its Managing Director, Office at 6th Floor,
Parishrama Bhavan, Basheerbagh, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

issue writ or writs order or direction more particularly in the nature of writ of Mandamus declaring and setting aside the judgment dt.6.4.2005 in C.M.A. No.33/1998 passed by the 2nd respondent confirming the eviction order dt.15.4.1998 passed by the 1st respondent as being illegal arbitrary, unconstitutional, violative of principles of natural justice and without jurisdiction.

Counsel for the Petitioner : MR.B.VIJAYSEN REDDY

Counsel for Respondent Nos.1 & 3 : MR.E.MADAN MOHAN RAO

Counsel for Respondent No.2 : G.P. for Labour.

The Court made the following Common Order :

HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION Nos.12066 and 12152 of 2005

COMMON ORDER :

These two writ petitions are filed by the same petitioner aggrieved by the orders dated 6-4-2005 passed in C.M.A.No.123 of 1999 and C.M.A.No.33 of 1998 by the second respondent - appellate authority under Section 9 of the Andhra Pradesh Public Premises (Eviction of Unauthorized Occupants) At, 1968 (for brevity 'the Act') i.e., the IV Additional District and Sessions Judge cum (FTC), Ranga Reddy District, with reference to two parcels of land, confirming the orders passed by the first respondent - Estate Officer and Manager (Recoveries), Andhra Pradesh Industrial Infrastructure Corporation Limited (APIIC), Hyderabad.

According to the petitioner the two parcels of land from which the respondents are seeking to evict the petitioner are originally assigned to the petitioner for setting up of an Industrial Unit. But, however, certain proceedings have been initiated on various grounds and the original assignments were cancelled. Pursuant to the said cancellation, the third respondent initiated proceedings before the first respondent seeking eviction of the petitioner. The first respondent, after considering the rival contentions, passed order of eviction. The said order was assailed by filing two appeals in C.M.A.No.33 of 1998 and C.M.A.No.123 of 1999, where the appellate authority also confirmed the orders of eviction, which are being assailed in the present writ petitions.

Learned counsel for the petitioner contended that the orders passed by the appellate authority are without jurisdiction, as under the provisions of the Act, it is only the District Judge of the District, who is competent to hear and dispose of the appeal, and in case if the appeal is assigned to any Judicial Officer, such officer must be having a minimum of ten years standing. But in the present case, the appeals are disposed of by the Additional District Judge, who did not fulfil the requirements as contemplated under Section 9 of the Act. According to the learned counsel, the Additional District Judge, who disposed of the appeals, is neither a Principal District Judge of the District, nor a Judicial Officer with ten years standing as contemplated under the provisions of the Act. Therefore, the Additional District Judge is incompetent to dispose of the appeals and the orders impugned in the present writ petitions are liable to be quashed on that simple ground. Elaborating his arguments,

the learned counsel contended that the term ‘District Judge’ was not defined in the Act, therefore, resort may be had to the General Clauses Act, 1897 where the term ‘District Judge’ was defined under Section 3(17) of the said Act, as per which the ‘District Judge’ shall mean the Judge of a Principal Civil Court of original jurisdiction, but shall not include a High Court in exercise of its ordinary or extraordinary original Civil jurisdiction. Therefore, according to the learned counsel, the District Judge means only the Principal District Judge of the District and not an Additional District Judge. The learned counsel also referred to the provisions of the Andhra Pradesh Civil Courts Act, 1972 (hereafter referred to as ‘the Civil Courts Act’). The learned counsel refers to Section 10 of the Civil Courts Act, which provides for establishment of such number of District Courts as the Government may deem necessary and appoint a District Judge for each District. Section 11 of the Civil Courts Act refers to the appointment of Additional District Judges where on the recommendations of the High Court depending upon the business pending in a District Court, the Government may appoint one or more Additional District Judges to the District Court, who shall perform all or any of the functions of the District Judge under the Civil Courts Act or any other law for the time being in force, which the District Judge may assign to him and in the performance of those functions, he shall exercise the same powers as the District Judge. Reference was also made to Section 20 of the Civil Courts Act, where a corresponding reference of the ‘District Judge’, ‘Additional District Judge’, ‘Subordinate Judge’ and ‘Junior Civil Judge’ of the District are referred and in the District of Hyderabad as ‘Chief Judge’, ‘Additional Chief Judge’, ‘Senior Civil Judge’ and ‘Junior Civil Judge’ of the City Civil Court and the Courts of the Chief Judge or Additional Chief Judge, Senior Civil Judge and Junior Civil Judge respectively. Section 23 of the Civil Courts Act refers to the general control of the District Judge over all Courts in a District. Therefore, the learned counsel contended that the term ‘District Judge’ referred to in Section 9 of the Act would mean only the Principal District Judge and cannot be referred to any other officer of the District Court.

Therefore, the learned counsel contended that in view of the above provisions, the Additional District Judge is clearly without jurisdiction to dispose of the appeal, and therefore, sought to set aside the impugned orders on that ground.

The learned standing counsel for APIIC, on the other hand, supported the orders. According to the learned counsel the 'District Judge' referred to in Section 9 of the Act is not a *persona designata*, but is referred to only to the office of the District Judge and the Court. As Section 11(2) of the Civil Courts Act provides for discharging the functions of the District Judge by the Additional District Judge, and while discharging those functions, the Additional District Judge shall exercise the same powers as that of the District Judge. Therefore, the Additional District Judge, while exercising the appellate powers under the Act, should be treated as a District Judge and not as any Judicial Officer to whom the matters have been assigned as contemplated under the said provision. He also relied upon the judgment of the Punjab and Haryana High Court in the case of **Tara Singh v. Additional District Judge, Ferozepur** where almost identical issue under the provisions of the Act was considered. The learned counsel also relied upon a Division Bench judgment of this Court in **New Jaji Labour Society v. Haji Abdul Rahaman Sahab** which is also to the similar effect. Therefore, the learned counsel for APIIC contended that there is no merit in the contention advanced by the petitioner and the writ petitions are liable to be dismissed.

From the above rival contentions, the issue to be considered is whether the impugned orders passed by the learned Additional District Judge are liable to be set aside on the ground of lack of jurisdiction to dispose of the said appeals.

Admittedly, eviction orders were passed by the first respondent, who is the Estate Officer and Manager (Recoveries) competent to act under the provisions of the Act. The said orders of eviction were assailed by filing appeals under Section 9 of the Act. The said appeals filed by the petitioner were heard and disposed of by the Additional District and Sessions Judge (Fast Track Court), Ranga Reddy District. The grievance of the petitioner is that the Additional District Judge lacks jurisdiction, as according to the learned counsel, he is neither a Principal District Judge nor any other Judicial Officer having not less than ten years standing, therefore, he is incompetent to hear and dispose of the appeals. As the term 'District Judge' was not defined in the Act, the learned counsel referred to Section 3(17) of the General

Clauses Act, as per which 'District Judge' means the Judge of a Principal Civil Court of original jurisdiction, but excludes the High Court while exercising its ordinary or extraordinary original Civil jurisdiction. The learned counsel also referred to the various provisions of the Civil Courts Act, where reference was made to the District Judge as well as the Additional District Judge. Therefore, the contention of the learned counsel is that there is a distinction between the 'Principal District Judge' and the 'Additional District Judge' and under the provisions of Section 9 of the Act, it is only the Principal District Judge who is competent to dispose of the appeals by himself or it can be assigned to a Judicial Officer having not less than ten years standing. As the Additional District Judge is not fulfilling either of the requirements provided under the Act, the impugned orders are liable to be quashed. This contention is to be examined in the light of the provisions of the Act, the other relevant provisions and the judgments relied upon by the parties.

It is not in dispute what is referred to in Section 9 of the Act is 'the District Judge'. Therefore, according to the learned counsel 'the District Judge' means only the Principal District Judge and not any other Judicial Officer of the District Court. But if the appeal is assigned to any other Judicial Officer, he shall be having not less than ten years standing. According to the learned counsel for the petitioner, the Additional District Judge, who disposed of the appeals, is not fulfilling either of the requirements. Learned counsel for the petitioner, however, did not advance any arguments that the District Judge would mean only the *persona designata,* though the inference of his arguments is only to that effect. This issue was considered directly by a Division Bench of the Punjab and Haryana High Court where a reference was already been made earlier, where also the Additional District Judge disposed of the appeal filed under the identical provisions of the Act, and the Division Bench held that the Additional District Judge was discharging the functions of the District Judge and not as an Officer, who was assigned, as contemplated under the appeal provision, therefore, he need not fulfil the other condition of having not less than ten years standing. In fact, as already referred to, a Division Bench of this Court also had an occasion to consider similar issue, may be under the provisions of the other Acts, the definition of 'District Judge'. The Division Bench, after referring not only to the provisions of various Acts, where such reference was made including the definition contained under Section 3(17) of the General Clauses

Act, concluded that the term 'District Judge' is not a *persona designata* but only refers to the District Court and in such an event, if the Additional District Judge heard and disposed of the appeal while exercising the powers of the District Judge as contemplated under Section 11(2) of the Civil Courts Act, he was discharging the functions of District Judge and not as Judicial Officer referred to in Section 9 of the Act.

In the case of **Tara Singh v. Additional District Judge, Ferozepur** (supra – 1), the Additional District Judge disposed of the appeal filed against the order of the Estate Officer and in the writ petition filed against the said order of the appellate authority, one of the contention was that the Additional District Judge would not fall in the category of District Judge, therefore, unless the Additional District Judge is having a standing of 10 years, he is not legally competent to deal with the appeal under the provisions of the Act. The Punjab and Haryana High Court rejected the said contention holding that the Additional District Judge was exercising the powers of the District Judge. The Court also held that the term 'District Judge' does not talk of *persona designata,* but the District Judge as a Court. Had it been a *persona designata*, provision could not have been made to designate any other Judicial Officer to deal with the appeal. The Court also made a reference to the provisions of the Punjab Courts Act, which provides that the Additional District Judge dealing with and disposing of the cases, which are either made over to him by the District Judge or by High Court by a general or special order, shall be deemed to be the Court of the District Judge. Therefore, the Court negatived the claim that the Additional District Judge falls in the category of any other Judicial Officer having ten years standing, on the other hand he falls within the category of District Judge. Therefore, the time of ten years standing need not be complied with.

The learned counsel also relied upon a Division Bench judgment of this Court in **New Jaji Labour Society v. Haji Abdul Rahaman Sahab** (supra –2) where the Division Bench while considering the provisions of the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982, which provides for constitution of a Special Court, which shall have all the powers of a Civil Court for disposal of the cases falling under the said Act, held that even before the constitution of the Special Court, the powers were conferred on the Presiding Officers of the District Court, and the

Division Bench while considering the term 'District Judge' referred to in the provisions, does not act as a *persona designata,* but merely acts as Presiding Officer of the District Court. Therefore, the functions of the District Judge, as a Special Court under the Act, may be assigned to the Additional District Judge and in performance of his functions, the Additional District Judge has the same powers as the that of the District Judge, consequently he can try and dispose of the cases or proceedings arising under the said Act, which are made over to him by the District Judge. The Division Bench also made a reference to Section 3(17) of the General Clauses Act as well as to the provisions of the Civil Courts Act. The Court also considered the earlier decisions in **Ramachandra Rao v. State of Madras (AIR 1962 A.P. 58)** which was a case arising out of the provisions of the Telegraph Act, where reference was made to the District Judge and the Court held that the 'District' includes Additional District Judge while determining the compensation as contemplated under the provisions of the said Act. The Court also made a reference to the Full Bench decision of this Court in **Public Prosecutor v. L.Ramayya [1974 (2) APLJ 305 (F.B.)]** where the Full Bench had an occasion to consider whether the District and Sessions Judge was acting as Judicial Authority under Section 6(c) of the Essential Commodities Act, is a *persona designata* or whether he is a inferior Criminal Court against whose order a revision was maintainable.

From the above referred judgments, it is clear that the issue is concluded in view of the decision of this Court in **New Jaji Labour Society v. Haji Abdul Rahaman Sahab** (supra –2) apart from the other decisions referred to therein. No other issue was canvassed. Therefore, there is no merit in the contention of the petitioner and the writ petitions are liable to be dismissed.

The writ petitions are accordingly dismissed as devoid of merit. No costs.

(S.ANANDA REDDY, J)

21-07-2005.

Msr.

To

1 The Estate Officer and Manager Recoveries,

A.P.Industrial Infrastructure Corporation Ltd.
Office at 6th Floor, Parishrama Bhavan, Basheerbagh,

Hyderabad.
2 The Appellate Authorty U/s 9 of the A.P. Public Premises

(Eviction of Unauthorized Occupants) act 1968
and IV Additional District and Sessions Judge Cum (FTC)

Ranga Reddy District Court at L.B.Nagar.
3 The Managing Director,

A.P. Industrial Infrastructure Corporation Ltd.

Office at 6th Floor, Parishrama Bhavan,

Basheerbagh, Hyderabad.

4 2 CCs to Government Pleader for Labour,

High Court Buildings, Hyderabad.

5 2 CD copies

HON'BLE SRI JUSTICE S.ANANDA REDDY

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(Msr)